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MICHAEL RODAK, JR., CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, A.D. 1972

No. 72 - 963

JOHN A. HUTTER, et al.,

Petitioners

vs.

THE COUNTY OF COOK,
a Body Political and Corporate, et al., and
P. J. CULLERTON, personally,
Assessor of Cook County

Respondents

BRIEF IN OPPOSITION TO RESPONDENTS
OPPOSITION TO PETITIONERS PETITION
FOR A WRIT OF CERTIORARI

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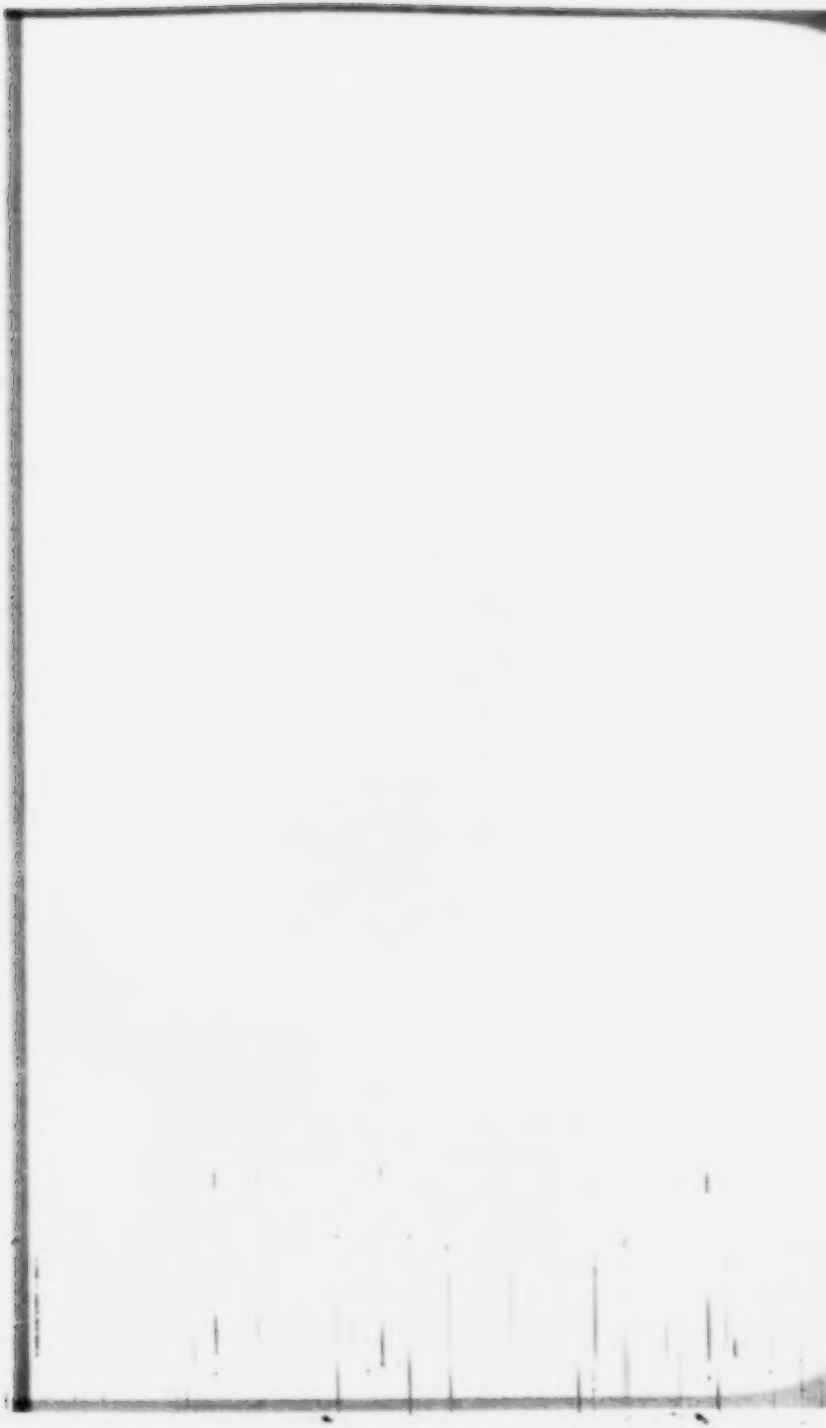
ISSUES

The respondents ignore the fact that this is an action claiming that P. J. Cullerton, Assessor for Cook County, deliberately and wantonly violated the Civil Rights of the petitioners in that "he conspired with two or more persons to injure, oppress, threaten and intimidate the petitioners in the free exercise or enjoyment of their rights and privileges



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secured by the Constitution of the United States" - and furthermore, did this "under color of State Law."

This violates the 1968 Amendment to the Civil Rights Act and provides severe penalties for which the Attorney General should seek an indictment.

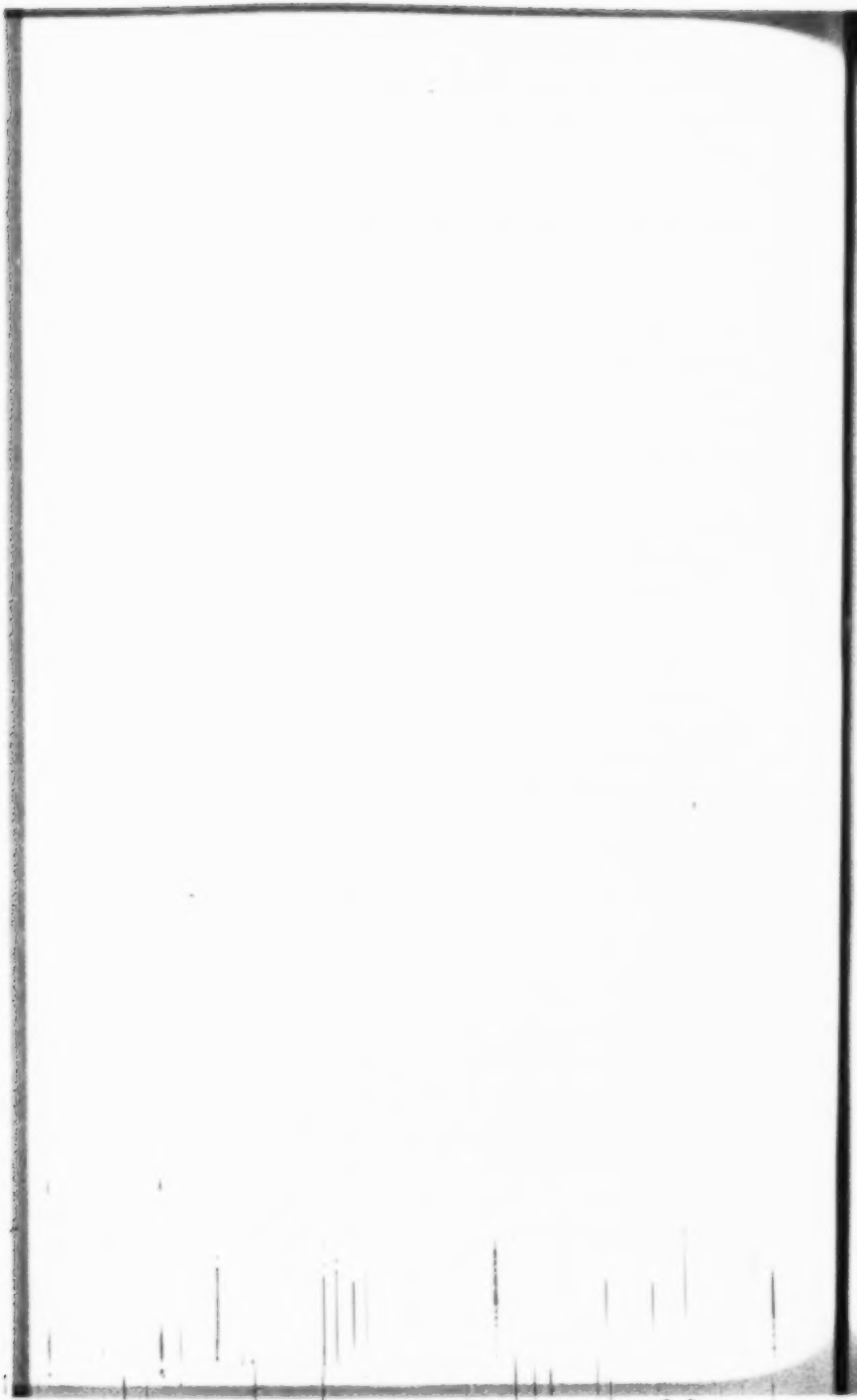
As set forth in Section (d) of petition, the acts of Mr. Cullerton wantonly and deliberately ignored the provisions of both the Federal and State Constitutions.

The question before this Court is simply whether it will protect the Constitutional and Civil Rights of the petitioners or find some excuse for avoiding it.

The Constitution is basic to our survival and this Court must protect all persons within its jurisdiction. If it persistently refuses to do so, our nation is in jeopardy.

This is an action for damages resulting from the blatant contempt, that Cullerton had for the Constitution.

On page 4 of respondent's brief, they claim that Hutter is attempting to challenge the State system. This is absurd. Hutter challenged the State system of taxation through all State Courts. See John A. Hutter et ux. vs. Bernard J. Korzen, et al., No. 71-1419 in which Mr. Justice Douglas dissented in the dismissal for untimely filing. This applied to Hutter's 1968 taxes; also study a similar appeal for Hutter's 1969 taxes, wherein he also claims the State statute requiring payment in full of taxes before



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a taxpayer may have his day in Court, is repugnant to the U. S. Constitution. This appeal is being filed herewith. It certainly is on time for the Illinois Supreme Court issued its order of denial on January 25, 1973.

This action is simply a claim for damages caused by Cullerton violating the Civil and Constitutional Rights of this large class of Illinois residents.

On page 5 the respondents quote Judge Will. "The rationale behind the Statute convinces us to refrain from exercising such jurisdiction as we might then possess prior to any proper attempts on the part of the plaintiffs to seek resolution of these issues in the State Courts." Of course, Hutter did just that as indicated supra. Judge Will referred to Section 1341. However, that provision was only part of Hutter's basis for Federal Court action. In complaint, he refers to "and other sections applicable".

Certainly, a Federal Court has jurisdiction under all circumstances where violation of Civil Rights are alleged.

Under no circumstances does a Federal Court have the right of abstention where Civil Rights violations are involved.

The respondents of course, ignore this on pages 5, 6, 7.

On page 8, they talk of form.

All Federal rules stress the proposition that form is of little importance. Justice is.

When our government was set up, the States agreed that they would forever be

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bound by the Federal Constitution. In enforcing the protection of that Constitution, there is absolutely no "conflict between two sovereignties."

The Civil Rights Act was specifically enacted by Congress to protect citizens from State employees and officials who violate the Constitution in dealing with those within their jurisdiction.

For reasons set forth in both briefs filed by petitioners, the Court is asked to grant them a Writ of Certiorari.

Respectfully submitted,

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